

ROBERTA CROSS GUNS  
Office of the Commissioner of Securities and Insurance  
Montana State Auditor  
840 Helena Avenue  
Helena, MT 59601  
406-444-2040  
[rcrossguns@mt.gov](mailto:rcrossguns@mt.gov)

Attorney for Securities and Insurance Departments

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE STATE AUDITOR  
STATE OF MONTANA**

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IN THE MATTER OF:	)	CASE NO. INS-2010-29
JANEL LARSON	)	NOTICE OF PROPOSED AGENCY
in her capacity as a licensed insurance	)	DISCIPLINARY ACTION
producer, License # 677495,	)	AND OPPORTUNITY FOR HEARING
Respondent.	)	

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Staff of the Insurance Department (Department) of the office of the State Auditor as Commissioner of Securities and Insurance of the state of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, Mont. Code Ann. § 33-1-101, et seq., is proposing to the Commissioner that she take specific action against JANEL LARSON (Larson), a licensed insurance producer, for violations of the Montana Insurance Code (Insurance Code). The Commissioner has authority to take such action under the provisions of Mont. Code Ann. §§ 33-1-102, 33-1-301, 33-1-311, 33-1-317, 33-1-318, 33-1-1202, 33-17-1001.

In particular, the Department recommends specific action against Larson, including imposition of appropriate fines, order to pay restitution and suspension or revocation of Larson's producer's license.

Service of process is pursuant to Mont. Code Ann. § 33-1-314.

### REASONS FOR ACTION

There is probable cause to believe that the following facts, if true, justify and support such specific action. Furthermore, there is reason to believe that the following facts will be proven true and, therefore, justify and support immediate issuance of an order requiring Respondent to cease and desist its activities in violation of the Insurance Code.

### ALLEGATIONS OF FACT

1. Larson is a licensed insurance producer, license number 677495, and has been licensed since October 19, 2006.
2. Larson was appointed with State Farm beginning on or about October 31, 2006. Larson's appointment with State Farm terminated on or about October 2, 2007.
3. On or about November 19, 2009, the Department received a complaint from State Farm Insurance Company (State Farm) alleging Larson had submitted multiple fraudulent insurance claims for herself pursuant to Larson's hospital income policy. The relevant time period is from April 1, 2007 through May 31, 2009.
3. Investigator Catrina Higgins (Higgins) investigated this matter. Pursuant to standard investigation procedures, Higgins obtained a copy of State Farm's claims file relevant to Larson. Higgins verified the claims file information with the hospital. The file indicated Larson had submitted fraudulent claims as follows:
  - a. Larson submitted a claim for services allegedly received on or about April 12, 2007, for \$420 when the actual hospital billing was for \$282, indicating a fraudulent claim of \$138. The claim was subsequently denied because it was for illness, which is not covered by Larson's State Farm policy.

b. Larson submitted a claim for \$750 for services allegedly received on or about April 18, 2007. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

c. Larson submitted a claim for \$750 for services allegedly received on or about May 1, 2007. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

d. Larson submitted a claim for \$1,250 for services allegedly received on or about July 4, 2008. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

e. Larson submitted a claim for \$1,500 for services allegedly received on or about February 8, 2009. State Farm paid the full claim. However, the legitimate hospital billing was for only \$801.20.

f. Larson submitted a claim for \$1,095.80 for services allegedly received on or about February 8, 2009. State Farm paid the claim. However, the hospital has no record of providing services for Larson on that date.

g. Larson submitted a claim for \$1,531.08 for services allegedly received on or about May 15, 2009. State Farm did not pay the claim. Additionally, the legitimate hospital billing was for only \$547.85.

4. The total amount of fraudulent claims made by Larson is \$6,410.68. Of that total, State Farm paid Larson \$5,570.56.

5. Most of the fraudulent claims were submitted with bills from the hospital that contained errors that were inconsistent with bills actually prepared by the hospital, including misspelled

words. During Higgins' investigation she discovered Larson had worked at the hospital from 2001 through 2006.

6. Higgins interviewed Larson on or about January 28, 2010. During the interview, Larson admitted submitting fraudulent claims to State Farm. Larson provided Higgins a written statement to that effect. Larson and Higgins both signed Larson's statement. A copy of Larson's statement is attached hereto as Exhibit A.

7. Larson has made an offer to repay State Farm the money she obtained through her fraudulent actions as indicated in her note to State Farm's Health Claim Examiner, Lora Keeney, a copy of which is attached hereto as Exhibit B.

#### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter by reason of the Respondent's licensure pursuant to Mont. Code Ann. § 33-17-101, et seq.

2. Pursuant to Mont. Code Ann. § 33-1-1202 (1), a person commits the act of insurance fraud when the person presents an insurer a written statement containing false information concerning any fact as part of a claim for payment, for the purpose of obtaining money.

3. Respondent violated Mont. Code Ann. § 33-1-1202 (1) by submitting claims to State Farm that contained false information, including fake dates of services provided by a hospital and fake amounts charged for services provided by a hospital for the purpose of obtaining money from the insurer.

4. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (c), the Commissioner may suspend or revoke an insurance producer's license when that person violates a provision of the Insurance Code.

5. Pursuant to Mont. Code Ann. § 33-17-1001 (1) (f), the Commissioner may suspend or revoke an insurance producer's license when that person, in conduct of the affairs under her license uses fraudulent practices or is untrustworthy or a source of loss and injury to the public.

6. Respondent violated Mont. Code Ann. § 33-17-1001 (1) (c) and (f) by violating the provisions of the Insurance Code found in Mont. Code Ann. § 33-1-1202 (1), showing Respondent uses fraudulent practices, is untrustworthy and is a source of loss and injury to the public.

### **PUBLIC INTEREST**

For any and all of the reasons set forth above, it is in the public interest and will protect Montana insurance consumers to:

1. immediately issue a cease and desist order barring Larson from further violations of the Montana Insurance Code;
2. order Larson to pay an administrative fine in an amount and upon such terms and conditions as supported by the evidence and determined at a hearing of this matter;
3. order Larson to pay restitution in amount and upon such terms and conditions as supported by the evidence and determined at a hearing of this matter;
4. suspend or revoke Larson's insurance producer's license; and
5. take such other actions which may be in the public interest and necessary and appropriate for the protection of Montana insurance consumers.

### **RELIEF REQUESTED**

WHEREFORE, the Department seeks the following relief:

1. pursuant to Mont. Code Ann. § 33-1-318, issuance of a temporary cease and desist order;
2. pursuant to Mont. Code Ann. § 33-1-317, imposition of a fine not to exceed \$5,000 for each violation of the Insurance Code;
3. pursuant to Mont. Code Ann. § 33-1-1211 (3), require restitution be paid to the insurer for the amounts obtained by insurance fraud;
4. pursuant to Mont. Code Ann. § 33-17-1001, suspension or revocation of Larson's insurance producer's license;
5. a finding that all sanctions and remedies detailed and described here are in the public interest and necessary for the protection of Montana insurance consumers; and
6. any further action as deemed just and appropriate for the protection of Montana insurance consumers.

#### **STATEMENT OF RIGHTS**

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-601, et seq., including § 2-4-631. If you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 15 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Roberta Cross Guns, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. Your letter

must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to Mont. Code Ann. § 2-4-603(2), you may not request to proceed informally if the action could result in suspension, revocation or any other adverse action against a professional license. Should you request a hearing on the matters raised in this Notice, a hearing must be held within 45 days of the request, unless postponed by mutual consent of the parties, pursuant to Mont. Code Ann. § 33-1-701 (2).

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of *Application of American Smelting and Refining Co.*, 164 Mont. 139, 520 P.2d 103 (1973), and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil* 2006 MT 284, 334 Mont. 311, 147 P.3d 200.

#### **CONTACT WITH SECURITIES COMMISSIONER'S OFFICE**

If you have questions or wish to discuss this matter, please contact Roberta Cross Guns, legal counsel for the Insurance Department, at 840 Helena Avenue, Helena, MT, 59601, (406) 444-2040 or, within Montana, (800) 332-6148. If an attorney represents you, please make any contacts with this office through your attorney.

#### **POSSIBILITY OF DEFAULT**

Failure to give notice or to advise of your demand for a hearing or informal procedure within 15 days will result in the entry of a default order imposing the disciplinary sanctions

against you and your license without further notice to you, pursuant to Mont. Admin. R. 6.2.101, and the Attorney General's Model Rule 10, Mont. Admin. R. 1.3.214.

DATED this 8<sup>th</sup> day of April, 2010.

Roberta Cross Guns  
Roberta Cross Guns  
Attorney for Insurance Department

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served on the 8<sup>th</sup> day of April, 2010, by US mail, certified first-class postage paid, to the following:

Janel Larson  
2307 Stower Street  
Miles City, MT 59301

[Signature]